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Held at the Palais Wilson, Geneva, on Wednesday, 9 July 2014, at 10 a.m.

Chairperson: Sir Nigel Rodley

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The meeting was called to order at 10.05 a.m.

Consideration of reports submitted by States parties under article 40 of the Covenant (*continued*)

Fourth periodic report of the Sudan (continued) (CCPR/C/SDN/4; CCPR/C/SDN/Q/4 and Add.1)

1. *At the invitation of the Chairperson, the delegation of the Sudan took places at the Committee table.*

2. **Ms. Mustafa** (Sudan) said that a comprehensive review had been carried out of all enactments relating to women, including the Criminal Code, the Personal Status Act and the Labour Code. As a result, two draft revised articles of the Criminal Code on adultery and rape had been submitted to parliament and were awaiting a decision.

3. There was no discrimination against women in the Sudan, and the Bill of Rights contained in the Constitution established that all rights were enjoyed equally, regardless of gender, ethnicity or religion. The Bill of Rights also provided for affirmative action in favour of women in the workplace. A national strategy for women's empowerment had been developed to give effect to the equality provisions of the Constitution in all sectors of economic activity.

4. The allegations of rape in Darfur reported to the Human Rights Council had been examined, and it had emerged that no cases of rape had actually been reported in the camps in West or North Darfur. The source of the information was therefore unclear. In order for the necessary protection, including emergency contraceptives, to be provided in such cases, it was important that rapes were reported directly where they actually took place.

5. On the issue of female genital mutilation (FGM), she recalled that the State party had enacted the first law on the practice in 1946 and that the Criminal Code of 1973 also contained provisions prohibiting it. A change of mentality was required in order to put an end to customary practices such as FGM. The Salima awareness-raising campaign had been run throughout the country — reaching more than 1.6 million people — with the objective of significantly decreasing the incidence of FGM. There was a database of registered FGM cases in several states. The National Council for Child Welfare had requested the amendment of the Children's Act in order to combat the practice.

6. **Mr. Morowa Musa** (Sudan) said that the number of returnees from the camps in Darfur had increased in 2013 and 2014, and they were provided with the necessary assistance, including food and basic services. However, many challenges remained in Darfur, and there were still more than 1.8 million displaced persons in the region's five states. Concerted efforts were required from all stakeholders, including government, civil society, and international and community organizations. The contractual relationship between the Government and humanitarian workers had been clarified with a view to facilitating their work, strengthening transparency and accountability, and controlling the assistance provided. The World Food Programme had provided food aid while the Office of the United Nations High Commissioner for Refugees had provided non-food items. The State of Qatar had established a centre for returnees, providing health, food and policing services. The Government had also signed an agreement with the League of Arab States, the African Union and the United Nations to channel relief operations to the southern part, but rebel movements were hindering efforts. The United Nations Children's Fund (UNICEF) had also been prevented from running its immunization programme because of rebels blocking access.

7. **Mr. Kälin**, noting the increasing food insecurity in certain areas, asked whether, as a matter of principle, the Government of the Sudan allowed humanitarian aid, especially food

aid, to be brought to areas controlled by rebels, and, if so, under what conditions. Referring to the recent incident involving the return of Eritrean refugees who had come from camps in Ethiopia, he asked why they had been sent back to Eritrea rather than Ethiopia.

8. **Mr. Neuman** asked the delegation to provide a response to question 10 of the list of issues concerning non-discrimination. With regard to the allegations of violations that were believed to be unfounded, he wondered whether the State party would be willing to ratify the Optional Protocol to the Covenant in order to address concerns of that kind by enabling individuals to submit complaints to the Committee.

9. **Mr. Salvioli** said that he would welcome clarification on the issue of the death penalty. He recalled that, despite the Committee having expressed concern that Sudanese legislation in that area was incompatible with the provisions of the Covenant during its consideration of the State party's previous two reports in 2009 and 1997, the relevant provisions had not been amended. It did not appear that, as stated by the delegation, the death penalty applied only to the most serious crimes. The lists of crimes to which the death penalty applied differed in the replies to the list of issues and the State party report, and some crimes had not been mentioned in either. The issue was of the utmost seriousness, as the provisions of article 6 of the Covenant were non-derogable, and the State party must take into account the Committee's concluding observations when amending its legislation.

10. **The Chairperson**, speaking as a member of the Committee, shared Mr. Salvioli's concerns about the lack of clarity surrounding which offences were punishable by death. For example, there was no reference in the report or replies to the list of issues to apostasy being a capital offence, yet in a recent high-profile case Ms. Meriam Ibrahim had been sentenced to death for apostasy and subsequently acquitted. He asked why the State party had not included apostasy among the capital crimes listed in its documentation. If it was not actually a capital crime, on what basis had the court condemned the woman in question to death?

11. **Mr. Ben Achour**, referring to question 16 of the list of issues, noted that, although the crime of torture was included in a number of Sudanese laws, none of them provided a clear and precise definition of the crime. According to reports received by the Committee from various non-governmental organizations (NGOs), the use of torture against political opponents and protesters by the security forces was widespread. For example, following a demonstration in September 2013, a number of people had been injured and killed by the security forces in violation of article 7 of the Covenant. The Special Rapporteur on Human Rights Defenders and the Special Rapporteur on Rights of Women of the African Commission on Human and Peoples' Rights had also expressed grave concerns in that regard. In a recent communication, the African Commission on Human and Peoples' Rights had also found the Sudan to be in violation of the African Charter on Human and Peoples' Rights on the grounds of torture. He would be interested to hear the delegation's comments on those points.

12. Referring to question 17 of the list of issues, he said that many of the statistics provided by the State party were not relevant to the issue at hand. As to question 18, he said the argument that forms of punishment that were in breach of articles 7 and 10 of the Covenant, such as flogging and amputation, stemmed from the national belief and creed was not acceptable. By ratifying the Covenant, the State party had undertaken to change cultural or traditional practices that were in violation of the human rights provided for in the Covenant. He cited the example of a number of Islamic States that had amended their national legislation to bring it in line with the Covenant, with the support of their religious leaders. He invited the delegation to comment on why the State party continued to make such a narrow interpretation of sharia law.

13. Turning to question 20 of the list of issues, he said that while the 2010 National Security Act no doubt contained some improvements in the context of articles 9, 10 and 14 of the Covenant, the period of detention permitted under the Act went far beyond the 30 days provided for under international human rights law and the Committee's general comment. He asked the delegation to comment on reports that the families of persons injured during the incidents of September 2013 had not been able to obtain the documents needed in order to open an investigation, and that a number of persons had been sentenced to death under the Act.

14. **Mr. Kälin**, referring to question 19, asked what measures had been taken to implement the Committee's recommendation in the previous concluding observations about combating the practice of abduction. He wished to know what resources were made available to the Committee for the Elimination of Abduction of Women and Children, what kind of assistance was provided to victims to help them reintegrate into their families and communities, and in how many cases such assistance had been provided. Noting that, according to reports from NGOs, there continued to be cases of kidnapping of refugees and asylum seekers and insecurity in refugee camps and other locations, he would welcome updated information on measures being taken by the authorities to enhance protection of those groups.

15. **Mr. Neuman** said that, in its written replies, the delegation had not answered the question about the trials of civilians by military and special courts during the reporting period. He asked whether it was the case that, under the amendments made to the Armed Forces Act in 2013, military courts were permitted to try civilians under the 1991 Criminal Code for undermining the constitutional system, leaking classified information and publishing false news. The implication that journalists could be tried on such grounds ran counter to the Sudan's obligations under the Covenant.

16. **Mr. Boujid** said that the delegation had not provided a complete list of offences that were punishable by death. It was encouraging that the delegation had said that no measures had been implemented in cases of apostasy, which he took to mean that the death penalty had not been applied. Even under sharia law, many thought that religion was a personal choice, between a believer and the Creator, in which the State had no role. However, despite the delegation's statement that the rights of non-Muslims were fully respected, the fact that a young mother of two children had been sentenced to hang for apostasy and — because she was married to a Christian — for adultery showed that that was not the case. He asked whether legal proceedings against her had been completed. Moreover, since the secession of South Sudan, the Sudanese authorities had been less tolerant towards Christian communities. In January 2014, for example, students had been driven from their Christian school and three other Christian educational institutions had been closed and their premises sequestrated. He requested the delegation's comments.

17. **Ms. Seibert-Fohr** requested the delegation to reply to her earlier question concerning articles 145 and 149 of the Criminal Code. She also asked for a copy of the 1973 Criminal Code, which the delegation had said criminalized female genital mutilation.

18. With regard to freedom of expression, she noted that, in a number of cases, newspapers' licences had been cancelled or their publication suspended for days on end. Even if such decisions were later overturned by the courts, the repeated use of such measures could have a chilling effect on free speech. Moreover, journalists had been arrested and prosecuted for publishing "false news", especially in relation to anti-Government protests. The Government sought to justify such suppression in the interests of protecting national security and public order. Any action taken must, however, be proportionate, as stated in the Committee's general comment No. 34 on freedoms of opinion and expression. Attacks on journalists were never justified, although, judging by

paragraphs 154 and 155 of the fourth periodic report, journalists themselves were deemed a threat to free speech by the Government of the Sudan.

19. In June to August 2012 and September 2013, excessive force had been used to disperse demonstrators, of whom 60 had been killed and hundreds arrested and sometimes tortured or ill-treated. So far as she could tell, there had been no investigation into the deaths, the focus being entirely on damage to property. She therefore requested further details. Lastly, although the President had announced an easing of restrictions on opposition and media activities in April 2014, it appeared that articles 7, 9, 14, 15 and 19 to 21 of the Voluntary and Humanitarian Work Regulation Act were used to ban events organized by civil society groups and human rights defenders.

20. **Ms. Waterval** said, with regard to question 27 of the list of issues, that, according to information received by the Committee, formal and informal fees were charged for birth registration and fines were imposed for late registration. Moreover, birth registration remained a challenge in remote areas. She asked whether birth registration was available for South Sudanese children, who might not be considered to be refugees, abandoned children, victims of trafficking or street children. She also asked whether the State party would allocate resources for birth registration in remote areas, grant access to the United Nations to carry out age verification during military enlistment, and provide relief and reintegration for children involved in armed conflict. With regard to minority rights, she welcomed the recent announcement that South Sudanese would be treated equally with Sudanese citizens but requested the delegation to comment on reports that persons of South Sudanese origin were discriminated against and harassed.

21. **Mr. Zlătescu** said that, for hundreds of years, African farmers and Arab nomads had lived side by side, respecting each other's needs. Desertification had caused tensions, but the Sudanese Government seemed to have intentionally exacerbated such tensions in order to dissipate opposition to central rule. The Government's strategy had impelled nomadic Arab peoples to form militias, probably supported by the Government, that targeted African ethnic groups. In response, the Fur, Masalit and Zaghawa ethnic groups had begun to form their own militias. Despite the Comprehensive Peace Agreement of 2005, reports showed that restiveness had increased across the Sudan. The Darfur uprising of 2005 had provoked severe retaliatory action by the Government and the Janjaweed militias, resulting in innumerable deaths and widespread displacement. Against that background, he asked how the Comprehensive Peace Agreement had been implemented with regard to the status of local minorities and how the Sudan would avoid another uprising in the region.

22. Another potential crisis had been identified in the Nubia mountains, as the Sudanese Government had developed dam-building projects on the traditional lands of the Nubian and Manasir populations. Many feared that the Government's plans were explicitly intended to put an end to their ancient customs. There were many other possible causes of conflict, since the Sudan comprised more than 600 ethnic minorities, many of them displaced by war and famine. The tensions were political and economic rather than racial, but there was also a clear ethnic aspect. He therefore asked how the Government intended to protect diverse ways of life and prevent the disappearance of traditions and languages that did not conform to the beliefs of the majority. He wondered whether the recourse to sharia allowed room for plurality and whether non-Muslim populations in the Sudan could be offered a guarantee against suspicion of apostasy.

The meeting was suspended at 11.30 a.m. and resumed at 11.55 a.m.

23. **Mr. Musa** (Sudan) said, with regard to the provision of humanitarian aid in areas controlled by rebels, that, on the basis of an agreement signed by his Government, the Arab League, the African Union and the United Nations, there was nothing to prevent such aid being provided. As to the expulsion of refugees, the persons concerned were not considered

refugees, so that their refugee documentation was no longer valid. Once their visas had expired, they were arrested and returned to the Eritrean border.

24. **Mr. Abdelgadir** (Sudan) said that the interim Constitution prohibited all forms of discrimination, so all the country's legislation was required to comply with that provision. It was therefore doubtful whether it was useful to consider consolidating the prohibition of torture in a single law. The Sudanese legislature had preferred to adopt separate laws, which addressed different forms of torture. Thus, if a victim died under torture, the penalty was death for the perpetrator, whereas the penalty was lighter for less extreme forms of torture.

25. The Sudan had nothing to hide: if all offences punishable by death did not appear on the list already provided, his delegation would rectify any omissions. Among those offences was apostasy, a very serious offence in the Sudan. Standardized values and principles throughout the world were surely undesirable. In that connection, Mr. Ben Achour had talked about the incidence of amputation and flogging in the Sudan. He understood the point but questioned whether the Covenant should really take precedence over the State party's beliefs and religion. He also questioned whether an innovative, reformist approach was preferable to the certainties of sharia. However, sharia was a broad-based system and, if it was possible to be flexible, the Government would opt for flexibility.

26. The Sudan was currently considering whether to sign the two Optional Protocols to the Covenant. It had signed the Convention against Torture and Cruel, Inhuman or Degrading Treatment or Punishment and was considering its ratification. In that connection, he failed to see the connection between arbitrary arrest and torture. He added that a confession extracted by torture was not accepted as evidence by the courts.

27. **Mr. Eltahir** (Sudan) said that deprivation of liberty was the longest established way of preventing crime and ensuring public order. Governments all over the world followed that practice, one example being a law in the United Kingdom that provided for preventive measures in certain cases against persons suspected of terrorist acts. The Sudan aimed to protect its citizens against armed raids, racist practices and terrorism by detaining possible perpetrators. Moreover, by contrast with other countries, the duration of such detention was clear from the outset and in conformity with articles 9, 10 and 14 of the Covenant. A detention was overseen by the public prosecution service throughout its duration and security officials were required to provide detainees with documents requesting any extension of their detention. If they failed to do so, the detainee concerned must be released immediately. The system was further bolstered by other oversight mechanisms, such as the courts, the National Security Council, the Ombudsman, the Human Rights Commission and the military courts.

28. **Mr. Tungo** (Sudan) said, with regard to the abduction of women and children in conflict areas, that a commission set up by the Government and the United Nations had considered all the facts and submitted a report to the relevant authorities, before being wound up six years previously. The commission had enabled some families to be reunited and had provided such families with financial and social assistance and health care.

29. **Mr. Musa** (Sudan) said that there had been an influx of refugees from Eritrea, Somalia and Ethiopia into the Sudan, many seeking refuge in Shagarab camp. The State party was a transit country for many refugees whose final destinations were Egypt, Israel and Italy, and organized trafficking networks operated on those routes, especially in the Sinai desert leading towards Israel. A conference would be held to address the problem at regional level. Security in Shagarab had been improved to prevent abductions of refugees by traffickers; support for victims of trafficking, including food and medical care, had been increased; and services had been enhanced to prevent refugees from seeking better living conditions outside the camp; which exposed them to further risk. The rate of abductions of

refugees and asylum seekers had accordingly declined, with 40 cases reported between January and June 2014. The Sudanese police assisted in locating and removing victims from trafficking networks, and prosecuting traffickers. Furthermore, a law against trafficking in persons would enter into force in March 2015 and another to prevent the refoulement of refugees without documentation and the confiscation of property in the camps had already been introduced.

30. **Mr. Eltahir** (Sudan) said that persons suspected of committing crimes in conjunction with military personnel could be tried in military courts. Those courts had restrictions on their powers, respected constitutional law, and ensured that non-military persons enjoyed the same rights as in the civilian courts. There had been no reports of journalists coming before the military courts and no provision authorized such proceedings.

31. **Mr. Abdelgadir** (Sudan) added that non-military persons tried in military courts could not be considered civilians since they appeared as members of a militia or an armed paramilitary group.

32. His Government rejected all forms of discrimination and would bring its legislation into line with the Covenant where necessary on that matter. While sharia was never applied to non-Muslims in the State party, the vast majority of the population was Muslim and therefore subject to Islamic norms. The laws in force for other members of the population depended on the region in which they lived. The rare individual cases of women charged with apostasy had given rise to the false notion of a phenomenon of apostasy convictions and intolerance of Christians. The case of Mariam Yahya Ibrahim was not directly linked to apostasy. She had been tried and convicted for marrying a non-Muslim. However, during the course of the proceedings she had declared she was a Christian and the verdict had therefore been overturned by the court of appeal. Statistics were available regarding the numbers of practising Christians in the State party; they had free access to churches and could perform services.

33. Freedom of expression was guaranteed under the Constitution and regulated through legislation on the press, which consisted of a large number of newspapers and social media and was not subject to censorship. However, if offences were committed, such as defamation or dissemination of false news, the perpetrators were brought before the courts and duly prosecuted.

34. The events of September 2013 had not constituted peaceful demonstrations but rather an attempt at political sabotage by rebel organizations which had publicized their plans through the press. Reports had established that private and public property had been damaged and people had been killed, including law enforcement officials; all cases had been investigated. Protesters who had been found innocent had been released immediately, and the courts had very recently released further detainees. Those found guilty had been detained and had access to due legal process.

35. **Ms. Mahmoud** (Sudan) said that children were protected under the Children's Act of 2010, which covered children from vulnerable groups and street children. A national plan was being drawn up to promote birth registration, which was free of charge in most regions. Her Government was making efforts to guarantee free birth certificates nationwide. A strategy had also been developed with a view to increasing registration to cover 90 per cent of births, which included the introduction of registration via mobile phone and the engagement of itinerant health personnel.

36. A programme had been established by the Sudan Disarmament, Demobilization and Reintegration Commission to demobilize children from armed groups and reintegrate them into their families; thousands of children had thereby been demobilized. Mechanisms were in place to provide training on the rights of children, prevent enlistment and create protection systems.

37. The Government continued to combat female genital mutilation through the development of a protection and monitoring mechanism.

38. **Mr. Abdelgadir** (Sudan) said that there were no minority groups in the Sudan since members of different ethnic groups, often with the same religion, intermarried and lived together, creating a unified tolerant society. In any case, the law provided protection for the rights of non-Muslims.

39. **Mr. Ben Achour** said that the religion of Islam and sharia were separate concepts: the former involved worship while the latter was a law that had been evolving over hundreds of years, which was in the nature of all law. It was of the utmost importance that Islam should enjoy a good reputation throughout the world and matters such as apostasy and excessive punishment were therefore not in the interests of Islam.

40. **Mr. Salvioli** emphasized that the Committee had compiled the 1997 and 2007 concluding observations on the Sudan in line with general comment No. 6, taking into account case law on the death penalty from around the world. Committee members did not represent individual countries or legal systems. It was disturbing that religious freedom was used as a ground for the non-alignment of domestic legislation with the Covenant. While article 18 provided for religious freedom, no article allowed the contravention of the Covenant on grounds of religion. Under general comment No. 31, States parties were required to harmonize their domestic legislation with the Covenant.

41. **Mr. Abdelgadir** (Sudan) said that his Government would make every effort to ensure that its legislation was in line with the Covenant. While the Government was open to discussion regarding sharia law, the fact remained that sharia enshrined the principles of Islam and did not run counter to the Covenant. The distinction between sharia and the religion of Islam was therefore perplexing. The State party was making progress in guaranteeing freedom of expression.

42. **The Chairperson**, speaking as a member of the Committee, acknowledged the way in which the State party had coped with the seismic change brought about by the secession of South Sudan, which had amounted to exercise of the right to self-determination.

43. The issues of the death penalty and other cruel punishments had been central to the discussions and were connected to religion. The Committee's objective did not lie in interpreting sharia but rather in considering the application of national law. In the light of article 6 of the Covenant, which stipulated that the death penalty could be imposed only for the most serious crimes and not contrary to the provisions of the Covenant, the Committee could not accept that the definition of serious crimes could be determined by individual States. It was also unacceptable to consider apostasy a criminal offence, much less a capital offence, since it was incompatible with the right to freedom of religion. The application of corporal punishment also required conformity with an objective standard. Furthermore, extracting testimony under torture and excessive periods of executive detention without judicial supervision were not in line with practices in most other parts of the world or with the Covenant, and the concerns of the Committee on those matters had not been alleviated. The issues raised in 1997 and 2007 remained, and it was therefore frustrating that the State party pursued the same policies. He hoped that the delegation would take the Committee's comments into account.

The meeting rose at 1.15 p.m.